

United States Postal Service

§ 954.23

§ 954.18 Proposed findings and conclusions.

(a) A party to a proceeding may submit proposed findings of fact and conclusions of law to the presiding officer. The presiding officer shall determine whether they shall be oral or written. The presiding officer may require parties to a proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. When the proposed findings and conclusions are not submitted orally they shall be filed within 15 days after delivery of the official transcript to the Recorder. The Recorder shall notify the parties of the filing date which shall be the same for both parties. If not submitted by that date, the findings and conclusions will not be considered or included in the record.

(b) Except when presented orally, proposed findings of fact and conclusions of law shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits relied upon to support the conclusions proposed. Each proposed conclusion shall be separately stated.

[36 FR 11567, June 16, 1971, as amended at 62 FR 66998, Dec. 23, 1997]

§ 954.19 Initial decision.

(a) Upon request of either party the presiding officer may render an oral initial decision at the close of the hearing when the nature of the case and the public interest warrant. If a party desires an oral initial decision he or she shall notify the presiding officer and the opposing party at least 5 days prior to the date set for hearing. Parties may then submit proposed findings and conclusions orally or in writing at the conclusion of the hearing.

(b) If an oral initial decision is not rendered, the presiding officer shall render a written initial decision with all due speed after the parties have submitted all posthearing material. The initial decision shall become the final agency decision unless it is appealed.

(c) The initial decision shall include findings upon all material issues of fact

and law presented on the record and the reasons for those findings.

[36 FR 11567, June 16, 1971, as amended at 62 FR 66998, Dec. 23, 1997]

§ 954.20 Appeals.

(a) A party may appeal to the Judicial Officer from an initial decision by filing exceptions in a brief on appeal within 15 days from the receipt of a written or oral initial decision.

(b) The time for the filing of the reply brief is 10 days after receipt of the appeal brief. No additional briefs shall be received unless requested by the Judicial Officer.

(c) Appeal briefs shall contain the following matter in the order indicated:

(1) A subject index of the matters presented with page references;

(2) A table of cases alphabetically arranged;

(3) A list of statutes and texts cited with page references;

(4) A concise abstract or statement of the case;

(5) Numbered exceptions to the findings and conclusions of the presiding officer and the reasons for the exceptions.

(d) Reply briefs shall contain paragraphs (c) (1), (2), and (3) of this section and the reasons for opposing the exceptions.

[36 FR 11567, June 16, 1971, as amended at 38 FR 17217, June 29, 1973]

§ 954.21 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Agency decision.

§ 954.22 Continuances.

For good cause shown, continuances or extensions may be granted by the presiding officer. Similar action may be taken by the Judicial Officer when the proceeding is on appeal.

§ 954.23 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or holiday, in which

§ 954.24

event the period runs until the close of business on the next working day.

§ 954.24 Official record.

The pleadings, orders, exhibits, transcript of testimony, briefs, decisions and other documents filed in the proceeding constitute the official record of the proceeding.

§ 954.25 Public information.

The Librarian of the Postal Service maintains for public inspection in the Library copies of all initial and final Agency decisions. The Recorder of the Postal Service maintains a complete official record of every proceeding. A person may examine a record upon authorization by the Judicial Officer.

[36 FR 11567, June 16, 1971, as amended at 62 FR 66998, Dec. 23, 1997]

§ 954.26 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

[42 FR 5358, Jan. 28, 1977]

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

Sec.

955.1 Jurisdiction, procedure, representation of parties.

PRELIMINARY PROCEDURES

- 955.2 Appeals, how taken.
- 955.3 Notice of appeal, contents of.
- 955.4 Forwarding of appeals.
- 955.5 Preparation, contents, organization, forwarding, and status of appeal file.
- 955.6 Dismissal for lack of jurisdiction.
- 955.7 Pleadings.
- 955.8 Amendments of pleadings or record.
- 955.9 Hearing election.
- 955.10 Prehearing briefs.
- 955.11 Prehearing or presubmission conference.
- 955.12 Submission without a hearing.
- 955.13 Optional small claims (expedited) and accelerated procedures.
- 955.14 Settling the record.
- 955.15 Discovery—depositions.
- 955.16 Interrogatories to parties, admission of facts, and production and inspection of documents.
- 955.17 Service of papers.

39 CFR Ch. I (7–1–02 Edition)

Hearings

- 955.18 Where and when held.
- 955.19 Notice of hearings.
- 955.20 Unexcused absence of a party.
- 955.21 Nature of hearings.
- 955.22 Examination of witnesses.
- 955.23 Copies of papers.
- 955.24 Posthearing briefs.
- 955.25 Transcript of proceedings.
- 955.26 Withdrawal of exhibits.

Representation

- 955.27 The appellant.
- 955.28 The respondent.

Decisions

- 955.29 Decisions.

Motion for Reconsideration

- 955.30 Motion for reconsideration.

Dismissals

- 955.31 Dismissal without prejudice.
- 955.32 Dismissal for failure to prosecute.

Ex Parte Communications

- 955.33 Ex parte communications.

Sanctions

- 955.34 Sanctions.

Effective Date and Applicability

- 955.35 Subpoenas.
- 955.36 Effective dates and applicability.

AUTHORITY: 39 U.S.C. 204, 401; 41 U.S.C. 607, 608.

SOURCE: 41 FR 7408, Feb. 18, 1976, unless otherwise noted.

§ 955.1 Jurisdiction, procedure, representation of parties.

(a) *Jurisdiction for considering appeals.* The U.S. Postal Service Board of Contract Appeals (Board) shall consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the Postmaster General or his duly authorized representative or board. In addition the Board shall have jurisdiction over other matters assigned to it by the Postmaster General. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Postmaster General himself.

(b) *Organization and location of the Board.* (1) The Board is located in Arlington, VA and its mailing address is